

## FLC, Post - ETA

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**From:** FLC, Post - ETA  
**Sent:** Tuesday, July 17, 2012 12:00 PM  
**To:** '1454-01397119@requests.muckrock.com'  
**Subject:** Department Labor Freedom of Information Act Communication and Fee Request Letter (Tracking Number 690642)

July 17, 2012

Frank Lin  
MuckRock News  
DEPT MR 1454  
Post Office Box 55819  
Boston, Massachusetts 02205-5819

Sent Via E-mail and Regular Mail

**RE:** Freedom of Information Act Request Follow-up Communication Letter and Fee Request  
Tracking Number 690642 - **Subject: PERM Cases After October 1, 2006**

Dear Mr. Lin:

You requested a fee waiver when you submitted your FOIA request. A person requesting a fee waiver bears the initial burden of satisfying the statutory and regulatory standards for a fee waiver. Therefore, when requesting a fee waiver, requesters should address both of the statutory and regulatory requirements in sufficient detail for the agency to make an informed decision as to whether it can appropriately waive or reduce the fees in question.

The information you have provided supporting your request for a fee waiver does not appear to support the reasoning that the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and that the information is not primarily in your commercial interest. Specifically, our analysis reveals that (1) the subject matter of the requested records, in the context of the request, does specifically concern or explain identifiable operations or activities of the government; (2) you did not explain how the disclosed records are likely to contribute to an understanding of specific government operation or activities in a meaningfully informative manner in relation to the subject matter of the request; (3) you did not explain how the disclosure contributes to public understanding as opposed to the individual understanding of the requester or a narrow segment of interested persons; (4) you did not explain how the disclosure contributes "significantly" to public understanding of government operations or activities; (5) the request does involve "commercial interest of the requester" which would be furthered by the disclosure; and (6) the disclosure is not greater in magnitude than the requester's commercial interest.

However, pursuant to the Department's regulations at 29 CFR § 70.40(c)(4), charges assessed for the production of records for requesters in the media category may be for review and reproduction costs. There is no charge for reproduction since you requested the records be transmitted electronically. There is no charge for the first two hours of review time, and a subsequent charge of \$10 per quarter hour for professional review time.

Other than the data we maintain on our website at <http://www.foreignlaborcert.doleta.gov/quarterlydata.cfm>, which you have indicated in your initial FOIA that you are aware we do not maintain aggregated data. We can forward to you all the applications for 2006 to present at cost and subjected to applicable FOIA exemption and you can extract the data you are requesting. Again, as you indicated in your initial email you are aware that we have received over 353616 applications for 2006 to 2011. As of July 8 2012 we have received an additional 49,679 applications which brings the total to over 403,295 applications.

The following is an estimated cost for review of the records you requested:

1. \$3,920 for 98 hours of professional review time (total estimated time is 100 hours).

The total amount owed would be \$3,920.

Before we take further action on your request, pursuant to Department's FOIA regulations at 29 CFR § 70.43(c), we are asking that you make an advance payment of \$1,960. Alternatively, you may wish to narrow your request in some way that would reduce this fee. The narrowing of your request must be written. A check or money order for \$3,920 made payable to the United States Treasury, should be mailed attention to Michelle Moreno, Office of Foreign Labor Certification FOIA Coordinator, at the following address:

United States Department of Labor  
Employment and Training Administration  
Office of Foreign Labor Certification  
200 Constitution Avenue, NW  
Room C - 4312  
Washington, D.C. 20210

Please ensure FOIA number 690642 is clearly written on the check or money order. If we do not hear from you within 10 business days of the date of this letter, we will assume that you have withdrawn your request and we will consider this matter closed.

Although our denial of your fee wavier request does not bar you from any existing records we may have, you may file an appeal of this determination with the Solicitor of Labor within 90 days from the date of this letter. The appeal must state the grounds for the appeal and should include supporting statements, arguments, a copy of your initial request, and a copy of this letter. To facilitate processing, you may fax your appeal to (202) 693-2768. If mailed, please clearly mark the envelope and letter of appeal: "Freedom of Information Act Appeal," and address to: Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-2428, Washington, D.C. 20210.

I hope this information is helpful.

Sincerely,

Michelle Moreno  
OFLC FOIA Coordinator